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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LOW, LINDSAY M

ART UNIT PAPER NUMBER

3721

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/569,553

Applicant(s)

REA ET AL.

Examiner

Lindsay M. Low

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/27/2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Information Disclosure Statement

2. The information disclosure statement filed February 27th, 2006 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. The information disclosure statement also fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "7a" has been used to designate both the cam track and a semicircular segment as described on page 5 in the disclosure. In addition, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 1a, which is shown in Fig. 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are

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required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract and the disclosure are objected to because they both state, "in which there slide piston type dosing means." It should state, "in which there are slide piston type dosing means." This is shown on page 3 in the section "Disclosure of the Invention." Correction is required. See MPEP § 608.01(b).

Claim Objections

5. Claim 1 is objected to because of the following informalities: it states, "in which there slide piston type dosing means." It should state, "in which there are slide piston type dosing means." Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Regarding claim 4, the phrase "fork-shaped" renders the claim indefinite because it is unclear as to what the phrase means or what that looks like in the drawings. Claim 5 is also rejected since it depends on Claim 4. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Konig et al. (5,441,342).

Konig discloses the same invention including a rotary drum 2 positioned between the conveyor 40 and the hopper 9. Although Konig does not disclose a web of filter material, note that the conveyor 40 is capable of supporting a web for packaging purposes. The web is considered a work piece and does not form a part of the apparatus because it doesn't contribute to the overall function of the device. The rotary drum has a plurality of radial cells 3 that is made for containing the product. Each cell

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has a slide piston 43 driven axially by cam means as best shown in Figs. 7 and 8.

There are two positions where one faces the hopper 9 to receive the product, while the other faces the conveyor 40 where the product is discharged. Between the cam means and each piston 43 are crank mechanisms 113 and 110 as shown in Fig. 2 that enables the piston to move in the radial direction. The cam means comprises a cam track 45 and a cam follower 109 for each piston in the drum. The first crank 110 is connected at one end to the cam follower 109 and the other end to a shaft 111, which is attached to a second crank 113. The second crank is in turn connected to a control rod, which is linked to the piston 43 as shown in Fig. 2. The connection between the second crank 113 and the shaft 111 enables the motion between the cam means and the piston 43 (col. 9 lines 25-32). A pin 114 passes through a hole, which couples the second crank 113 to the control rod. In addition, the control rod is connected to the piston 43 using a pin that passes through a hole (Figs. 1 and 2).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romagnoli (4,870,808) in view of Konig et al., (5,486,048).

Romagnoli discloses the same invention including a rotary drum 11 positioned between a hopper 32 and a web of filter material 2. The rotary drum has a plurality of cells as shown in Fig. 3 that hold sliding pistons 34. The pistons 34 are driven axially by a cam means (col. 5 lines 8-12). There are two positions where one faces the hopper 32 to receive the product, while the other faces the web of material 2 where the product is discharged. The cam means includes a cam track and a cam follower 35 for each piston. Romagnoli fails to disclose crank mechanisms including a first and second crank for moving the pistons in a radial direction.

However, Konig teaches a crank mechanism 44 for each piston 43 as shown in Fig. 2. The mechanism includes a first crank 110 that is connected at one end to a cam follower 109 and the other end to a shaft 111, which is rigidly attached to a second crank 113. The second crank is in turn connected to a control rod, which is linked to the piston 43 as shown in Fig. 2. The connection between the second crank 113 and the shaft 111 enables the motion between the cam means and the piston 43 (col. 9 lines 25-32). A pin 114 passes through a hole, which couples the second crank 113 to the control rod. In addition, the control rod is connected to the piston 43 using a pin that passes through a hole (Figs. 1 and 2). Konig uses this crank mechanism 44 for the purpose of causing a radial movement of each piston 43 both inwardly and outwardly in the opening (col. 5 lines 15-19). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a crank mechanism as taught by Konig for the purpose of allowing radial movement of each piston in the rotary drum.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Guyer, Rhodes, Hall, Altvater et al., Shaw, Dennis et al., Lewis Jr. et al., Miller, Vogt, Debay, Mattos, Dinius, Chierici et al., and Feltrop are cited to show related inventions .

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Low whose telephone number is 571-272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LML *LMZ*
11/29/2006

Louis K. Huynh
LOUIS K. HUYNH
PRIMARY EXAMINER